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PUBLIC UTILITIES
COMMISSION

DIVISION OF CONSUMER ADVOCACY
Department of Commerce and
Consumer Affairs
335 Merchant Street, Room 326
Honolulu, Hawaii 96813
Telephone: (808) 586-2800

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAII SUPERFERRY, INC.)
For a Certificate of Public Convenience and)
Necessity to Engage in Operations as a)
Water Carrier.)

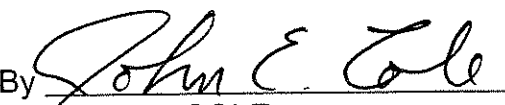
DOCKET NO. 04-0180

DIVISION OF CONSUMER ADVOCACY'S
INFORMATION REQUESTS

Pursuant to the agreed upon Schedule of Proceedings set forth in the Stipulated
Procedural Order No. 21194, the Division of Consumer Advocacy hereby files its
INFORMATION REQUESTS in the above docketed matter.

DATED: Honolulu, Hawaii, August 16, 2004.

Respectfully submitted,

By 
JOHN E. COLE
Executive Director

DIVISION OF CONSUMER ADVOCACY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S INFORMATION REQUESTS** was duly served upon the following parties, by personal service, hand delivery, and/or U.S. mail, postage prepaid, and properly addressed pursuant to HAR § 6-61-21(d).

John Garibaldi
Chief Executive Officer
Hawaii Superferry, Inc.
Pier 19, Ferry Terminal
Honolulu, HI 96817

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1099 Alakea St.
Honolulu, HI 96813

DATED: Honolulu, Hawaii, August 16, 2004.



DOCKET NO. 04-0180

HAWAII SUPERFERRY, INC.

SUBMISSION OF INFORMATION REQUESTS

INSTRUCTIONS

In order to expedite and facilitate the Consumer Advocate's review and analysis in the above matter, the following is requested:

1. For each response, the Company should identify the person who is responsible for preparing the response as well as the witness who will be responsible for sponsoring the response should there be an evidentiary hearing;
2. Unless otherwise specifically requested, for applicable schedules or workpapers, the Company should provide hard copies of each schedule or workpaper together with one copy of each such schedule or workpaper on electronic media in a mutually agreeable format (e.g., Excel and Quattro Pro, to name two examples); and
3. When an information request makes reference to specific documentation used by the Company to support its response, it is not intended that the response be limited to just the specific document referenced in the request. The response should include any non-privileged memoranda, internal or external studies, assumptions, Company instructions, or any other relevant authoritative source which the Company used.
4. Should the Company claim that any information is not discoverable for any reason:
 - a. State all claimed privileges and objections to disclosure;

- b. State all facts and reasons supporting each claimed privilege and objection;
- c. State under what conditions the Company is willing to permit disclosure to the Consumer Advocate (e.g., protective agreement, review at business offices, etc.); and
- d. If the Company claims that a written document or electronic file is not discoverable, besides complying with subparagraphs 4(a-c), identify each document or electronic file, or portions thereof, that the Company claims are privileged or will not be disclosed, including the title or subject matter, the date, the author(s) and the addressee(s).

DOCKET NO. 04-0180

HAWAII SUPERFERRY, INC.

SUBMISSION OF INFORMATION REQUESTS

CA-IR-1

Ref: Application, page 5.

Applicant is planning to provide service between Oahu and Kahului, Maui; Nawiliwili, Kauai and Kawaihae, Hawaii. According to the Application, "operations to a particular port are subject to availability of adequate port facilities."

- a. What is the status of the negotiations with the State Department of Transportation in regards to the identification and evaluation of potential port facilities on the islands of Hawaii, Oahu, Maui and Kauai?
- b. Please provide copies of executed permits and leases for each facility.
- c. Please provide details, including proposed layouts of port requirements for each island, including, terminals, holding areas for vehicles, on/off ramps, and parking for overnight passengers.
- d. What modifications are necessary, if any, to current roadways and traffic signals, etc. flowing in to each port to handle the increased traffic caused by the vehicles (cars, buses and/or trucks) transmitting passengers/cargo for each

trip? Please provide plans and studies explaining accommodations for additional traffic.

- e. What is the estimated completion date for each port facility and the related infrastructure (terminal, parking, holding areas) that must be constructed to accommodate that traffic flowing in and out of the ports?
- f. Who will be responsible for the costs to complete the port facilities and related infrastructure (terminal, parking, holding areas, overnight parking areas, security, etc.)?

CA-IR-2

Ref: Application, page 6.

Applicant stated that the ferry would “operate year-round except for 10 days per year for scheduled maintenance, dry-docking and overhaul, and unscheduled interruptions due to weather and other unforeseen events.”

- a. Please provide a breakdown of the number of days allocated for each of the above mentioned activities to support this statement.
- b. For each of the activities, please provide the assumptions and documentation used to determine the days of down time.
- c. Will the scheduled maintenance affect the Company's ability to meet the sailing schedules set forth in the application?

Please explain how this scheduled maintenance will be completed.

- d. What criteria will be used to determine if a scheduled sailing will be cancelled? Who will make the final decision to cancel a scheduled sailing?
- e. How is Applicant planning to notify customers of the following down times for the following reasons:
 - 1. Scheduled ferry maintenance;
 - 2. Unscheduled ferry maintenance; and
 - 3. Unfavorable weather conditions.
- f. How much advance notice will be provided to customers for scheduled ferry maintenance?

CA-IR-3

Ref: Application, page 8.

Application states that construction of the first ferry commenced in May 2004, for delivery in late 2006 and the second ferry is expected to commence construction in mid-2006, for delivery in mid-2008.

- a. Will construction of the first ferry be completed on schedule to commence operations in late 2006?
 - 1. If so, please provide copies of documentation to support your response.

2. If the ferry will not be completed and ready to sail between the Hawaiian islands by late 2006, what is the reason?
- b. Please provide copies of the construction contracts for both ferries.
 1. Are there conditions that must be met to commence construction of the second ferry?
 2. If so, what are the conditions and how will they be met to complete both ferries in the timeframe stated above?
 3. If there are no conditions, can we assume the second ferry will begin construction in mid-2006 and completed and ready to sail between the Hawaiian islands by mid-2008?
- c. Please provide details to support Austal USA's technical and financial ability to deliver the first ferry in late 2006 and the second ferry to applicant in mid-2008.
- d. What approvals or certifications will be required to allow the ferry to begin operations between the Hawaiian islands?
- e. Has Applicant received approval from the County of Honolulu to pump the discharge from the ferry's holding tanks into the Honolulu wastewater system?

1. If yes, please provides copies of documents indicating such approval.
2. If not, when will this approval be obtained?

CA-IR-4

Ref: Application. page 8.

Application states that during the whale season the ferry plans to “alter routes and reduce speeds in certain areas to avoid potential contact with whales.”

- a. What are the approximate dates of the whale season?
- b. How will the route change and reduced speeds affect the posted schedule during the whale season?
- c. Are there other ferry operations that have similar marine related issues?
 1. If so, what procedures are currently in place for their operations?
 2. What types or classifications of incidents have been reported with similar ferry services?

CA-IR-5

Ref: Application, page 11.

According to the application, Applicant has contracted with HMS-Hawaii, Inc. a subsidiary of Hornblower Marine Services, Inc. “to provide marine management and crewing services.”

- a. Please provide copy of the contract with HMS-Hawaii, Inc. that sets forth the detailed responsibilities of HMS-Hawaii, Inc. and Hawaii Superferry, Inc. in maintaining a safe water carrier.
- b. Please provide documentation to support HMS-Hawaii, Inc.'s technical ability to maintain the ferries.

CA-IR-6

Ref: Application, page 12.

According to HRS § 271G-17.5 Issuance of securities, execution of leases,

a water common carrier may, on securing the prior approval of the public utilities commission, and not otherwise, issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness, payable at periods of more than twelve months after the date thereof, and enter into long-term leases of more than three years and leverage leases, for the following purposes and no other, namely: (1) For the acquisition of property; or (2) For the construction, completion, extension, or improvement of or addition to its facilities or service; or (3) For the discharge or lawful refunding of its obligations; or (4) For the reimbursement of moneys actually expended from income or from any other moneys in its treasury not secured by or obtained from the issue of its stocks or stock certificates, or bonds, notes, or other evidences of indebtedness, for any of the aforesaid purposes, except maintenance of service, replacements, and substitutions not constituting capital expenditure in cases where the water carrier has kept its accounts for such expenditures in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which the expenditures were made, and the sources of the funds in its treasury applied to the expenditures.

The application refers to the issuance of Series A & B Preferred stock, as equity for this project.

- a. Please provide details and the status of these stock offerings.
- b. Did Applicant receive approval from the Public Utilities Commission to offer and issue the Series A & B Preferred stock?

CA-IR-7

Ref: Application, page 12.

According to the application, Applicant is in the process of obtaining a loan guaranty from the U.S. Department of Transportation and financing to complete the two ferries.

- a. What is the status of the Applicant's efforts to secure the loan guaranty under U.S. Department of Transportation's Maritime Administration (MARAD) Title XI program?
- b. When does Applicant expect a formal response from MARAD?
- c. Please provide the terms of the approved loan guaranty.
- d. If not yet approved, what are the general terms of the loan guaranty program?
- e. Has Applicant secured a loan commitment from the private sector for the two ferries? If so, please provide a copy of the commitment letter that details the terms of the loan.

CA-IR-8

Ref: Application, page 13.

Application states that Applicant plans to secure subordinated financing from Austal USA. Please provide a copy of Austal USA's commitment for this subordinated financing.

CA-IR-9

Ref: Application, page 13-14.

- a. Please provide a copy of Applicant's detailed budget for this project. Please include any documentation to support the budget figures.
- b. Please provide the following:
 1. Sources and Applications schedule, indicating all sources of funds to support construction of ferries, working capital requirements and reserves. Please also detail how the funds will be used.
 2. Detailed schedule of all debt obligations (current and proposed) for the completion of the two ferries.
 3. Detailed revenue projections for calendar years 2004 through 2010, detailing income sources (i.e., by passenger, vehicle & truck revenues).
 4. Detailed cash flow analysis for the years 2004 through 2010, based on Applicant's revenue projections.

5. Applicant's break even analysis for one and two ferry operations.

CA-IR-10

Ref: Application, page 19.

Please provide a copy of the confidential market analysis prepared by Market Scope, Inc.

CA-IR-11

Ref: Application, page 19.

When fully operational, Applicant expects to create directly 300 to 350 new jobs in the operation and maintenance of the ferries.

- a. Please provide sources, assumptions, and calculations used to derive the expected number of new jobs.
- b. Please provide a breakdown of these positions, indicating whether the positions are anticipated to be full or part time positions.
- c. Does the Applicant think that there will be losses of jobs in competitor companies due to the new service? If so, please provide estimates of these job losses.
- d. Applicant has also stated that "these new jobs could lead to the creation of many more related jobs in Hawaii," based on the State Department of Business, Economic Development and Tourism's Input-Output Model for the immigrant investor program.

1. Does Applicant agree with the model?
2. If yes, why do you agree?
3. If no, why not?

CA-IR-12

Ref: Application , page 20.

Applicant has stated possible contracting by the military to transport troops and/or heavy equipment to the island of Hawaii.

- a. If, for example, the Applicant contracts with the military to ship military personnel and vehicles to the island of Hawaii on a specific day, how will this affect the posted sailing schedule?
- b. Will the non-military passengers be inconvenienced when Applicant transports military personnel, vehicles and cargo?
- c. If so, how and when will Applicant communicate this change to posted sailing schedule to the general public?

CA-IR-13

Ref: Exhibit 6, page 8.

Applicant's proposed tariff states a fuel surcharge may be levied at the rate of 2% increase in the price per ticket (passengers and vehicles) for each 10% increase in fuel costs above the benchmark price of \$300 per metric ton (delivered) of Marine Diesel Oil.

- a. How was the benchmark price of \$300 per metric ton established?

- b. Please provide the annual average price of Marine Diesel Oil (per metric ton delivered to Hawaii) from 1990 to present.
- c. What is the projected fluctuation in passenger and vehicle ticket pricing based on past history of the benchmark pricing?
- d. How often does the ferry need to refuel with the Marine Diesel fuel?
- e. Will the ferry need to have fuel available at each port?
- f. Does the Applicant have adequate fuel storage facilities at each port?
- g. Does applicant have a contract with a vendor to meet applicant's fuel requirements at each port?
 - 1. If yes, please provide a copy of the contract.
 - 2. If no, what is the status of securing a contract with fuel vendor?

CA-IR-14

Ref: Exhibit 6, pages 20-21.

According to Applicant's proposed tariff the ferries plan to operate up to 10 trips with one ferry (8am Monday to 11pm Tuesday) and up to 22 trips (8am Wednesday to 11pm Saturday) with two ferries in operation, with one hour layovers between each trip.

- a. Will the one hour layovers be adequate to refuel, complete maintenance and clean the ferry after each trip?

- b. Will the scheduled sailing departures and arrivals be delayed due to these maintenance procedures?
- c. Please detail maintenance procedures during layovers.

CA-IR-15

Ref. Exhibit 6, page 6, Exhibit 26, pages 2-4.

In Exhibit 6, Applicant indicates that it “may offer, at its discretion, to carry passengers and vehicles at rates less than those specified for persons such as Carriers investors, . . .”

In HRS § 271G.2 Declaration of policy, the Hawaii Water Carrier Act, states

. . . to encourage the establishment and maintenance of reasonable rates and charges for transportation and related accessorial service, without unjust discrimination, undue preference or advantage, or unfair or destructive competitive practices, all to the end of developing, coordinating, and preserving a sound transportation system by water.

- a. In the referenced exhibit, letters from potential clients indicate a “preferred customer” status. Please provide Applicant’s definition of “preferred customer” and the rates that these customers may be offered.
- b. Please list the customers that have received the “preferred” status and the derivations of any discounts offered.
- c. Please discuss in detail how the Applicant can justify the lower rates in its tariff based on provisions of HRS, Chapter 271G.

Ref: Exhibit 27, page 14.

In the Exhibit 27, a Maui News article dated March 9, 2004, stated that the company projects the business will be initially 60% passengers, and eventually shift to 60% cargo.

- a. Do you agree with this statement? If so, will this shift to increased cargo require a retrofit to the ferry's initial configuration?
 1. How long will it take to complete the retrofit?
 2. Will the scheduled sailings be adversely affected by allowing the vessel to be retrofitted?
- b. How will Applicant's revenue projections be impacted with this migration from passengers to cargo? Please provide copies of all calculations illustrating the shift in revenues from passenger to cargo.
- c. Will the shift in load cargo affect the Company's ability to service the anticipated volume of passengers using the ferry system for transport between the islands? Please explain how Applicant plans to support the passenger service.
- d. Applicant represented that there is no intention "to transport general commodities, containerized cargo or other cargo in bulk." What specific classifications of cargo is intended and what specific cargo will be prohibited or excluded?

CA-IR-17

Ref: Exhibit 27, page 45-46.

The Honolulu Star Bulletin's article in Exhibit 27 mentioned a ferry called the Lynx that operates in the Cook Strait, a rough and deep channel in New Zealand.

- a. What are the similarities and differences with ocean conditions in Applicant's proposed routes and the existing route used by the Lynx?
- b. Please provide details on the reliability of other similar built ferries that provide open ocean transportation for passengers and vehicles.
- c. Please provide copies of the research that has been done to determine the reliability of transporting passengers and vehicles on the scheduled sailings between Oahu, Hawaii, Maui and Kauai?
- d. Please provide Applicant's documentation on probable ocean conditions throughout the year to support the sailing schedule.

CA-IR-18

Ref: Exhibit 7, page 1.

- a. On page 2 of the Application, the Superferry is described as being a "semi-SWATH" aluminum catamaran vessel.
 1. Please describe the SWATH features of the Superferry vessel that results in its advantages.

2. Please describe the SWATH features not included in the Superferry vessel that increases its advantages.
- b. Please explain the difference between the light and dark green dots depicted on the chart.

CA-IR-19

Ref: Application, Security.

- a. Please explain the security procedures planned for the ferry and port facilities.
- b. Are the security procedures under the jurisdiction of the Department of Homeland Security? If not, what Federal, State, and/or local agency governs the security of water carrier operations?
- c. Please explain the differences, if any, relating to security requirements for ocean ferry operations versus inter-island air travel.
- d. Exhibit 9, page 2 indicates that besides video cameras there will be an onboard security guard. Will the Superferry vessel have only one security guard to handle all the passengers? Please clarify Applicant's security procedures.

CA-IR-20

Ref: Exhibit 6, Section IV.

Is each car/truck/vehicle required to have a driver on the voyage?